

**BEFORE THE FLORIDA
JUDICIAL QUALIFICATIONS COMMISSION**

**INQUIRY CONCERNING A
JUDGE, NO. 01-244
CHARLES W. COPE**

CASE NO.: SC01-2670

**RESPONDENT’S RESPONSE TO SPECIAL COUNSEL’S
EMERGENCY MOTION FOR PROTECTIVE ORDER REGARDING
EVIDENCE OF VICTIM’S REPUTATION OR PRIOR SEXUAL ACTIVITIES**

COMES NOW, the Honorable Charles W. Cope by and through undersigned counsel and files this response to Special Counsel’s Emergency Motion for Protective Order Regarding Evidence of Victim’s Reputation or Prior Sexual Activities¹ and in support thereof states:

1. As Special Counsel admits in his purported Emergency Motion for Protective Order Regarding Evidence of Victim’s Reputation or Prior Sexual Activities (“Emergency Motion”), the basis for such motion is Special Counsel’s In Limine Motion to Exclude Evidence of Victim’s Reputation or Prior Sexual Activities (the “Motion In Limine”)². At a telephonic hearing on such Motion in Limine, the Chair denied the motion stating that the Hearing Panel would decide such evidentiary matters as they arose in the Final Hearing and in the context of the other evidence presented. Special Counsel not content with such ruling, now seeks by way of his purported Emergency Motion to impede the Hearing Panel’s ability to decide such evidentiary issues in the

¹ The undersigned received the purported emergency motion at 4:30 p.m. on this date and was notified of such by telephone. The undersigned has attempted to expeditiously file this response so as to apprise the Commission of the impropriety of such motion. Given time constraints the undersigned cannot fully explain the theories of the relevancy of such areas of inquiry and reserves the right to supplement this filing in the future.

² Notably the Motion in Limine, like the purported Emergency Motion, was served on Judge Cope at the eleventh hour.

context of the evidence presented by precluding Judge Cope from engaging in discovery on the very matters which this Commission has held Judge Cope is entitled to proffer at the Final Hearing. Such extraordinary efforts by Special Counsel to prevent Judge Cope's ability to present relevant and material evidence relating to, *inter alia*, (a) Special Counsel's main witness' perjury in this action, (b) the emotional and psychological state of the Woman which Special Counsel has placed at issue in these proceedings, and (c) the Woman's sexual predatory habits that are clearly inconsistent with Special Counsel's allegation in these proceedings that Judge Cope either took or attempted to take advantage of her is very telling.

2. In addition, the purported Emergency Motion for Protective Order which is admittedly filed by design to impede Judge Cope's ability to introduce, or even proffer, evidence at the Final Hearing for a determination by the Hearing Panel as to its admissibility is contrary to rules of discovery, the rules of evidence, precepts of due process and Judge Cope's Sixth Amendment right of confrontation. Rule 1.280(b) of the Florida Rules of Civil Procedure provides, *inter alia*, "parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party . . . It is not grounds for objection that the information sought will be inadmissible at trial if the information sought reasonably appears to be calculated to lead to the discovery of admissible evidence. "[R]elevancy must be broadly construed . . . such that information is

discoverable if there is *any possibility* that it might be relevant to the subject matter.” Equal Opportunity Commission v. Electro-Term, Inc., 167 F.R.D. 344, 346 (D. Mass. 1996)(emphasis added). Accord, Amente v. Newman, 653 So.2d 1030, 1032 (Fla. 1995)(“The concept of relevancy is broader in the discovery context than in the trial context.”); Scuderi v. Bostin Ins Co., 34 F.R.D. 463, 466 (D. Del. 1964)(“[t]he test for relevancy is a liberal one. It requires only a reasonable probability of materiality and is not as strict as the standard of relevance at trial. Information can be relevant even if it only leads to other relevant information.”)

3. As referenced above, the scheduled depositions relate to the perjury the alleged “victim” committed during these proceedings, as well as specific factual matters at issue in these proceedings. For example, the Woman testified under oath that her mother was not an alcoholic, was not abusive towards her and that she never told Judge Cope to the contrary. In contrast, Judge Cope testified that the Woman shortly after he met her advised him that she wanted to get away from her mother because she was an alcoholic and abusive towards her and that Judge Cope construed such statement as a suggestion that the two leave the Woman’s mother’s presence, which they did. Judge Cope further testified that the Woman at the same time asked his opinion of her upon disclosing that she had a married boyfriend and had just had a recent abortion. The Woman now denies having had a recent abortion or advising Judge Cope of such. In contrast, the women advised Police Investigator Nash and the District Attorney’s Investigator of her having had a recent abortion. The fact that the

Woman had a married boyfriend (her second) and just had a recent abortion (her second) is consistent with the Woman's intoxicated mother's verbal abuse and the Woman's desire for her and Judge Cope to get away from the mother. At least one of the deponents will testify that the Woman's mother knew her daughter's relationship with a married man and was very upset over such given the Mother's opinion that the Daughter was wasting her time and the Mother's adamant desire to have grandchildren.

4. The Woman also attested under oath in these proceedings that she had only a brief relationship with Dr. Hance in Kentucky when, in fact, Dr. Hance has advised that such relationship was of substantial duration (years), that it began in Kentucky, and continued after the Woman relocated to California. In addition, to showing perjury in these proceedings, the evidence concerning her relationship with Dr. Hance, as well as a second married individual rebuts Special Counsel's contention that the Woman was emotionally vulnerable and that Judge Cope took advantage of or attempted to take advantage of such. The witnesses set for deposition will testify that the Woman was the sexual aggressor in initiating their relationships. They will also testify to events which demonstrate unequivocally that the Woman is in fact a manipulative, calculating sexual predator who will stop at nothing, including telling malicious and harmful lies, to obtain what she wants. In addition, such prior boyfriends will also confirm the existence of a physical anomaly of the Woman, which Judge Cope testified he observed and which the Woman falsely denied. Proof of the existence of

such anomaly will corroborate Judge Cope's testimony as to the events in question and further establish that the Woman has committed perjury regarding such events, particularly her denial that she entered Judge Cope's hotel or had any intimate contact with him other than Judge Cope's brief attempts to kiss her on the beach. Furthermore, facts relating to the Woman's contemporaneous efforts while in Carmel to reconcile with her married boyfriend by destroying his marriage is also relevant in that it explains why the Woman would deny in these proceedings entering Judge Cope's hotel room and undressing. Significantly, Special Counsel is continuing to pursue disciplinary action against Judge Cope for what allegedly occurred in Judge Cope's hotel room with the Woman despite her denials that the events ever occurred.

5. In addition, the Woman testified under oath in these proceedings that on the night at issue she was sleeping in her motel room but was awakened by the sound of the key (the one which Special Counsel contends Judge Cope stole) in the door of her room because she is a "light sleeper." In contrast, the woman also gratuitously testified in deposition that on a different occasion, when she was not intoxicated or under the influence of any drugs, she was gang raped by three men while she remained asleep. She also testified that she did not report the alleged rape to anyone and did not suffer any type of emotional injury as a result of such. Clearly, such testimony by her evidences one three propositions, each of which are favorable to Judge Cope in these proceedings: (1) the Woman committed perjury in these

proceedings about hearing the key and being a light sleeper, (2) the Woman engaged in consensual sex with three men thereby rebutting Special Counsel's contention that Judge Cope had to have taken advantage of the Woman in order to have her undress in his hotel room or (3) the Woman's story of being attacked and raped by three men is a fiction resulting from some psychological disturbance.

6. Here, the matters on which Special Counsel seeks to foreclose inquiry, not only will lead to relevant evidence but they themselves are demonstrably relevant [and Special Counsel knows that].

7. [What Special Counsel most fears is that] this evidence will demonstrate conclusively the perjury of the principal witness in the case for the JQC, Lisa Jeanes.

8. A cursory review of the allegations against Respondent coupled with the perjury of the principal witness demonstrates conclusively the admissibility of the evidence.

9. In Count I the JQC has charged the Respondent with eavesdropping on a personal conversation between Lisa Jeanes and her mother. This charge is predicated on the "victim's" false report to police that the Respondent was eavesdropping, that the Respondent intervened in a personal conversation, and that the Respondent sexually attacked her on a beach before she fled.

10. The truth of the matters are³ that the “victim” Lisa Jeanes approached Respondent, confided in him personal matters, and solicited his company away from her mother, whom she described as a verbally abusive alcoholic. The matters she confided in Respondent were that in addition to her mother’s abuse and alcoholism that she had a married boyfriend and had undergone a recent abortion.

11. At deposition under oath, Lisa Jeanes denied confiding in Respondent these matters and denied that her mother ever abused her or was an alcoholic. She also claimed that she was discussing with her mother a 10 year old abortion.

12. Dr. Stephen Hance will testify that he had an intimate relationship with Lisa Jeanes from 1997 through the fall of 2000. He will further testify, contrary to her false testimony under oath, that she approached him in the Summer of 2000 and advised that she believed she was pregnant because she had missed periods. He will further testify that he took her to a doctor and she thereupon immediately flew back to Maryland to see her gynecologist. Upon her return to California he had a conversation with her in which he told her that he did not want her to have an abortion. She advised him that she thought he did want her to have an abortion and that he didn’t have to worry anymore because she had had her period.

13. Dr. Hance will also testify that he had extensive contact with Lisa Jeanes’ mother and that the mother was in fact a very abusive and “mean” alcoholic. Whenever she got drunk, which was virtually all the time, she became very mean and

³ As Special Counsel has previously admitted.

abusive to her daughter. This was such a problem, according to Dr. Hance, that when he discussed marriage with Lisa Jeanes he told her it was a condition of any such marriage that she join Al-Anon.

14. Lisa Jeanes also perjured herself at deposition by asserting that Dr. Hance was “some old guy” that she dated briefly in Kentucky. Dr. Hance will testify that he was only 7 years older than Lisa Jeanes and that while their relationship began in Kentucky it continued for years in California. He will also testify that Nina Jeanes was very angry at the fact that Lisa was dating a married man because Nina wanted grandchildren. Further that Lisa sought to conceal her relationship with him from her mother. These facts are directly material to the circumstances whereby the Respondent met Lisa Jeanes and eventually wound up with her in his hotel room. Dr. Hance additionally is believed to be able to provide testimony concerning Lisa Jeanes’ promiscuity at Rood and Riddle, where she had a series of brief intimate relationships with stable hands and laborers at that facility. Lisa Jeanes’ promiscuity includes her engaging in apparently consensual sex with three individuals at one time the year after she graduated from high school. She claimed in deposition that this event was a multiple “rape,” which occurred without her knowledge while she was asleep. She further testified that this supposed multiple “rape” occasioned no psychological difficulties whatsoever for her and further that she never sought counseling.

15. The JQC has charged Respondent with taking advantage of Lisa Jeanes in Count III (Inappropriate Conduct of an Intimate Nature) by asserting that

she was at the time “emotionally vulnerable.” That allegation places directly at issue her psychological condition and whether Lisa Jeanes affirmatively sought the Respondent’s company or, as the JQC has alleged, Judge Cope in some fashion manipulated and took advantage of her condition. The evidence of her promiscuity is directly relevant to this issue and directly contravenes any proposition that the JQC may advance that the Woman was somehow compromised against her will.

16. Lisa Jeanes’ roommate in Kentucky is also expected to testify to her promiscuity and the fact that her relationship with Dr. Hance lasted for years and not a matter of a brief time in Kentucky as Lisa Jeanes has falsely testified.

17. All the above goes directly to the heart of the issue of what attracted the Respondent to the two women in the first place. He has testified to hearing abusive language from the mother and hearing the daughter crying. This is consistent with her confidence imparted that her mother was an abusive alcoholic who was verbally abusing her because of the matters she had disclosed to her mother that evening. In a statement to the California District Attorney’s Office in June 2001, Lisa Jeanes stated that she felt “horribly guilty” for what she had done and for having “spilled my guts” to her mother. However, at deposition both the mother and Lisa Jeanes falsely testified that there was no such argument and no such revelations. For example, Lisa Jeanes testified falsely that the abortion she disclosed to her mother was over ten years old. The mother testified that the daughter was not at all upset or guilty over the abortion. To the contrary we have established evidence that she reported such recent

abortion not only to the Respondent but to Officer Philip Nash and the California District Attorney's Office Investigator. Lisa Jeanes additionally falsely testified that her then current married boyfriend had traveled back to Kansas to see his wife because he had some issues and the mother falsely testified that the Daughter was looking forward to marrying her married boyfriend. In fact, the former married boyfriend was going back to reconcile with his wife. Both married boyfriends will testify that any efforts on their part to maintain contact with their families were met with great hostility and anger on the part of the daughter.

18. Both married boyfriends will testify that both prior and subsequent to Lisa Jeanes' encounter with Judge Cope in his hotel room she always shaved her pubic area. This is a critical piece of evidence in this case and conclusively demonstrates her perjury in denying that she ever went with Judge Cope into his hotel room. Judge Cope could not have known such a physical anomaly but for having seen it. He also was able to observe the nature of her intimate apparel, which was also confirmed by both married boyfriends. At deposition she committed further perjury in claiming that she only "trimmed" her pubic area before she went to the beach in the summer time and had not trimmed it when she was in Carmel with her mother. She further perjured herself by testifying falsely that she did not take any thong underwear with her to Carmel to be with her mother because it was not a romantic occasion.

19. The above evidence is also directly material to the psychological condition of this woman who not only falsely accused the Respondent of attempting

to rape her on a public beach, but after recanting that false allegation, falsely testified under oath that she never made the false report in the first place.

20. Special Counsel knows that the JQC has placed squarely at issue the psychological condition of this woman in the manner it elected to formally charge the Respondent. Indeed Special Counsel's most recent interrogatories requested the identities of witnesses who have "any information that you believe indicates that she had a motive to fabricate or a **psychological condition that would cause her to make this assertion (that Respondent attempted to open her hotel room door) in error.**" Respondent will place before the Hearing Panel competent evidence of such psychological condition.

21. In paragraph 4 of his motion Special Counsel asserts that Thomas McCann, Jr., has no information relevant to this case. In fact, Thomas McCann, Jr. will testify that the mother has been for years an abusive alcoholic. The mother and daughter both denied this central proposition in this case. He will testify that the alcoholism is so pervasive in her life that on her days off she begins drinking in the morning and drinks to the point of passing out. This necessitated Mr. McCann's handling of emergency medical calls and taking notes of medical contacts with the mother because she would not recall them.

22. In paragraph 5 of his motion Special Counsel falsely asserts that Stephen Hance has no information relevant to this case. As Special Counsel well knows Stephen Hance will testify that he had a four year relationship with the daughter

continuing up to approximately January of 2001. During that relationship he had frequent contact with the mother who he likewise describes as a verbally abusive alcoholic who typically gets very “mean” to her daughter when she gets drunk. As is the case with Mr. McCann, Dr. Hance provides direct evidence that the mother and daughter have committed perjury in this case in denying that the mother was an alcoholic and in further denying that on April 4, 2001, the mother was verbally abusing her. Judge Cope has testified that the daughter approached him and solicited his company after advising him that her mother was an abusive alcoholic and was verbally abusing her concerning recent events in her life including a recent abortion. Both the mother and daughter have denied all the above and have claimed that Judge Cope was eavesdropping on their conversation, an allegation which has been echoed by the JQC in Count I. Both Dr. Hance and Mr. McCann therefore offer direct knowledge of the mother’s and daughter’s perjury and the truthfulness of Judge Cope’s testimony regarding the circumstances whereby the daughter solicited his company.

23. In addition, the mother and daughter have both falsely denied that the daughter had a recent abortion. The daughter reported such to Judge Cope. She also reported she had a recent abortion to Officer Philip Nash, the investigating officer in the case. She also reported she had a recent abortion to the District Attorney’s Office investigator. Now she and her mother claim that the abortion was over ten years old. Dr. Hance will testify that the daughter came to him in the Summer of 2000 and complained to him that she believed she was pregnant because she had missed

periods. In response to that he took her to see Dr. Gary Wright after which she flew back to Maryland to see her gynecologist. When she returned from Maryland to California, Dr. Hance will testify that he spoke with her concerning his desire that she not have an abortion. At that time accordingly to Dr. Hance, the daughter stated that she thought he wanted her to have an abortion and that he did not have to worry anymore as she had her period.

24. In paragraph 6 of his motion, Special Counsel asserts that Gary Wright has no information relevant to this case. As Special Counsel well knows Gary Wright was the doctor who was a friend of Stephen Hance and the person to whom Hance brought the daughter in connection with her suspected pregnancy. The daughter did not have a skin condition and it is believed that Dr. Wright examined the daughter for pregnancy and administered a pregnancy test.

25. In paragraph 7 Special Counsel asserts that Bonnie Sue Barr has no information relevant to this case. To the contrary, Bonnie Sue Barr will testify that the daughter's relationship with Dr. Hance extended over a period of years in California. The daughter perjured herself at deposition in testifying that she only briefly dated Dr. Hance who she described as "some old guy" in Kentucky. In fact, the daughter persuaded Dr. Hance to follow her to California and to abandon his wife and children for that purpose.

26. In paragraph 8 Special Counsel asserts that Daniel Meagher has little if any information relevant to this case. In fact as Special Counsel well knows Mr.

Meagher, like Dr. Hance, will testify that the daughter always shaved her pubic area and usually wore thong underwear. This information is directly relevant to the establishment of the daughter's perjury concerning the entire invented scenario which is the predicate for Count I and Count III in this proceeding. Specifically, the daughter falsely accused Judge Cope of attempted rape on a public beach and falsely claimed that she fled in terror from Judge Cope. In fact no attempted rape occurred (as the daughter has subsequently admitted under oath). Moreover, the daughter solicited Judge Cope's company and voluntarily accompanied him to Judge Cope's hotel room where she disrobed which fact she denies. In that circumstance Judge Cope was able to observe the fact that the daughter shaved her pubic area and was wearing thong underwear. Judge Cope could not have made these observations but for the fact that she was undressed in his room. Dr. Hance and Mr. Meagher both independently confirm that the daughter always shaved her pubic area and usually wore thong underwear. At deposition the daughter not only falsely denied accompanying Judge Cope to his room, she also denied shaving her pubic area.

27. Daniel Meagher has significant additional information concerning this case as Special Counsel well knows, since Mr. Meagher's affidavit was provided to Special Counsel. Tara Trumler is the wife of Mr. Meagher not the ex-wife as Special Counsel falsely asserts. Ms. Trumler has information relevant to the case as Special Counsel well knows, since her affidavit likewise was furnished to Special Counsel. She was in contact with the daughter by telephone after the daughter learned that Ms.

Trumler's husband, Daniel Meagher, was returning to his wife to effect a reconciliation. Ms. Trumler will testify that the daughter verbally taunted her and made cruel and false allegations in an apparent effort to alienate Ms. Trumler from her husband. This relationship was specifically the focus of discussion between the mother and daughter when Judge Cope encountered them in California and Ms. Trumler is believed to have evidence which directly controverts the daughter's claim and the JQC's charge that the daughter was "emotionally vulnerable."

28. Astoundingly, Special Counsel has the audacity to tell this Court that witnesses such as Stephen Hance and Daniel Meagher have no relevant information when in fact it was the information they provided that prompted Special Counsel to stipulate months ago that Judge Cope was telling the truth in this case and the daughter was not.

29. In short, the noticed depositions need to be taken so as to discover, proffer and introduce material evidence exculpating Judge Cope from the formal charges which Special Counsel insists on pursuing despite the utter lack of credibility of Special Counsel's principal witness. This Commission can always rule on admissibility at trial after the depositions are taken, consistent with the Chair's prior ruling on Special Counsel's Motion in Limine. Clearly, under such circumstances there is no prejudice to the Special Counsel by Judge Cope taking of the depositions as he is entitled to do under the rules of civil procedure. To prevent the taking of the depositions, in contrast, would prevent discovery into relevant evidence and would

deprive Judge Cope of due process and his Sixth Amendment right to confrontation given that the matters to be inquired into specifically relate to the charges leveled against Judge Cope and/or the veracity of Special Counsel's principal witness.

WHEREFORE, Respondent respectfully requests that Special Counsel's Emergency Motion for Protective Order be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via facsimile and U.S. Mail to: **Judge James R. Jorgenson**, Chair of the Judicial Qualifications Commission Hearing Panel, 3rd District Court of Appeal, 2001 S.W. 117th Avenue, Miami, Florida 33175-1716; **John Beranek, Esq.**, Counsel to the Hearing Panel of the Judicial Qualifications

Commission, P.O. Box 391, Tallahassee, Florida 32302; **John S. Mills, Esq.**, Special Counsel, Foley & Laudner, 200 Laura Street, Jacksonville, Florida 32201-0240; **Brooke S. Kennerly**, Executive Director of the Florida Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, Florida 32303; **Thomas C. MacDonald, Jr., Esq.**, General Counsel to the Investigative Panel of the Judicial Qualifications Commission, 100 North Tampa Street, Suite 2100, Tampa, Florida 33602, this _____ day of June, 2002.

ROBERT W. MERKLE, ESQ.